

1 AN ACT relating to mail-in absentee ballot eligibility.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 117.085 is amended to read as follows:

4 (1) All requests for an application for an absentee ballot may be transmitted by
5 telephone, facsimile machine, by mail, by electronic mail, or in person. Except as
6 provided in paragraph (b) of this subsection, all applications for an absentee ballot
7 shall be transmitted only by mail to the voter or in person at the option of the voter,
8 except that the county clerk shall hand an application for an absentee ballot to a
9 voter permitted to vote by absentee ballot who appears in person to request the
10 application, or shall mail the application to a voter permitted to vote by absentee
11 ballot who requests the application by telephone, facsimile machine, or mail. The
12 absentee ballot application may be requested by the voter or the spouse, parents, or
13 children of the voter, but shall be restricted to the use of the voter. Except for
14 qualified voters who apply pursuant to the requirements of KRS 117.075 and
15 117.077, those who are incarcerated in jail but have yet to be convicted, those who
16 are uniformed-service voters as defined in KRS 117A.010 that are confined to a
17 military base on election day, and persons who qualify under paragraph (a)7. of this
18 subsection, absentee ballots shall not be mailed to a voter's residential address
19 located in the county in which the voter is registered. In the case of ballots returned
20 by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes
21 for returning the ballot, and instructions for voting to a voter who presents a
22 completed application for an absentee ballot as provided in this section and who is
23 properly registered as stated in his or her application.

24 (a) The following voters may apply to cast their votes by mail-in absentee ballot
25 if the application is received not later than the close of business hours seven
26 (7) days before the election:

27 1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;

2. Voters who are residents of Kentucky who are covered voters as defined in KRS 117A.010;
 3. Voters who are students who temporarily reside outside the county of their residence;
 4. Voters who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime;
 5. Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, who shall be permitted to cast an absentee ballot for electors for President and Vice President of the United States only;
 6. Voters who temporarily reside outside the state but who are still eligible to vote in this state;
 7. Voters who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office;~~and~~
 8. Voters who are program participants in the Secretary of State's crime victim address confidentiality protection program as authorized by KRS 14.312;and
 9. Voters who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because they have a medical condition.
- (b) Residents of Kentucky who are covered voters as defined in KRS 117A.010

1 may apply for an absentee ballot by means of the federal post-card application,
2 which may be transmitted to the county clerk's office by mail, by facsimile
3 machine, or by means of the electronic transmission system established under
4 KRS 117A.030(4). The application may be used to register, reregister, and to
5 apply for an absentee ballot. If the federal post-card application is received at
6 any time not less than seven (7) days before the election, the county clerk shall
7 affix his or her seal to the application form upon receipt.

8 (c) Absentee voting shall be conducted in the county clerk's office or other place
9 designated by the county board of elections and approved by the State Board
10 of Elections during normal business hours for at least the twelve (12) working
11 days before the election. A county board of elections may permit absentee
12 voting to be conducted on a voting machine for a period longer than the
13 twelve (12) working days before the election.

14 (d) Any qualified voter in the county who is not permitted to vote by absentee
15 ballot under paragraph (a) of this subsection who will be absent from the
16 county on any election day may, at any time during normal business hours on
17 those days absentee voting is conducted in the county clerk's office, make
18 application in person to the county clerk to vote on a voting machine in the
19 county clerk's office or other place designated by the county board of elections
20 and approved by the State Board of Elections.

21 (e) The following voters may, at any time during normal business hours on those
22 days absentee voting is conducted in the county clerk's office, make
23 application in person to the county clerk to vote on a voting machine in the
24 county clerk's office or other place designated by the county board of elections
25 and approved by the State Board of Elections:

- 26 1. Voters who are residents of Kentucky who are covered voters as defined
27 in KRS 117A.010, who will be absent from the county on any election

1 day;

2 2. Voters who are students who temporarily reside outside the county of
3 their residence;

4 3. Voters who have surgery scheduled that will require hospitalization on
5 election day, and the spouse of the voter;

6 4. Voters who temporarily reside outside the state but who are still eligible
7 to vote in this state and who will be absent from the county on any
8 election day;

9 5. Voters who are residents of Kentucky who are uniformed-service voters
10 as defined in KRS 117A.010 confined to a military base on election day
11 and who learn of that confinement within seven (7) days or less of an
12 election and are not eligible for a paper absentee ballot under this
13 subsection; and

14 6. A voter who is a pregnant woman in her last trimester of pregnancy at
15 the time she wishes to vote under this paragraph. The application form
16 for a voter under this subparagraph shall be prescribed by the State
17 Board of Elections, which shall contain the woman's sworn statement
18 that she is in fact in her last trimester of pregnancy at the time she
19 wishes to vote.

20 (f) Voters who change their place of residence to a different state while the
21 registration books are closed in the new state of residence before a presidential
22 election shall be permitted to cast an absentee ballot for President and Vice
23 President only, by making application in person to the county clerk to vote on
24 a voting machine in the county clerk's office or other place designated by the
25 county board of elections and approved by the State Board of Elections.

26 (g) Any member of the county board of elections, any precinct election officer
27 appointed to serve in a precinct other than that in which he or she is registered,

1 any alternate precinct election officer, any deputy county clerk, any staff for
2 the State Board of Elections, and any staff for the county board of elections
3 may vote on a voting machine in the county clerk's office or other place
4 designated by the county board of elections, and approved by the State Board
5 of Elections, up to the close of normal business hours on the day before the
6 election. The application form for those persons shall be prescribed by the
7 State Board of Elections and, in the case of application by precinct election
8 officers, shall contain a verification of appointment signed by a member of the
9 county board of elections. If an alternate precinct election officer or a precinct
10 election officer appointed to serve in a precinct other than that in which he or
11 she is registered receives his or her appointment while absentee voting is
12 being conducted in the county, such officer may vote on a voting machine in
13 the county clerk's office or other place designated by the county board of
14 elections, and approved by the State Board of Elections, up to the close of
15 normal business hours on the day before the election. In case of such voters,
16 the verification of appointment shall also contain the date of appointment. The
17 applications shall be restricted to the use of the voter only.

- 18 (h) The members of the county board of elections or their designees who provide
19 equal representation of both political parties may serve as precinct election
20 officers, without compensation, for all absentee voting performed on a voting
21 machine in the county clerk's office or other place designated by the county
22 board of elections and approved by the State Board of Elections. If the
23 members of the county board of elections or their designees serve as precinct
24 election officers for the absentee voting, they shall perform the same duties
25 and exercise the same authority as precinct election officers who serve on the
26 day of an election. If the members of the county board of elections or their
27 designees do not serve as precinct election officers for the absentee voting, the

1 county clerk or deputy county clerks shall supervise the absentee voting.

2 (i) Any individual qualified to appoint challengers for the day of an election may
3 also appoint challengers to observe all absentee voting performed at the
4 county clerk's office or other place designated by the county board of
5 elections, and approved by the State Board of Elections, and those challengers
6 may exercise the same privileges as challengers appointed for observing
7 voting on the day of an election at a regular polling place.

8 (2) The county clerk shall type the name of the voter permitted to vote by absentee
9 ballot on the application form for that person's use and no other. The absentee ballot
10 application form shall be in the form prescribed by the State Board of Elections,
11 shall bear the seal of the county clerk, and shall contain the following information:
12 name, residential address, precinct, party affiliation, statement of the reason the
13 person cannot vote in person on election day, statement of where the voter shall be
14 on election day, statement of compliance with residency requirements for voting in
15 the precinct, and the voter's mailing address for an absentee ballot. The form shall
16 be verified and signed by the voter. A notice of the actual penalty provisions in KRS
17 117.995(2) and (5) shall be printed on the application.

18 (3) If the county clerk finds that the voter is properly registered as stated in his or her
19 application and qualifies to receive an absentee ballot by mail, he or she shall mail
20 to the voter an absentee ballot, two (2) official envelopes for returning the ballot,
21 and instructions for voting. The county clerk shall complete a postal form for a
22 certificate of mailing for ballots mailed within the fifty (50) states, and it shall be
23 stamped by the postal service when the ballots are mailed. An absentee ballot may
24 be transmitted by facsimile machine or by the electronic transmission system
25 established under KRS 117A.030(4) to a covered voter as defined in KRS
26 117A.010. The covered voter shall be notified of the options for transmittal of the
27 absentee ballot, and the absentee ballot shall be transmitted by the method chosen

- 1 for receipt by the resident of Kentucky who is a covered voter.
- 2 (4) Absentee ballots which are requested prior to the printing of the ballots shall be
3 mailed or otherwise transmitted as provided in subsection (3) of this section by the
4 county clerk to the voter within three (3) days of the receipt of the printed ballots;
5 and absentee ballots which are requested subsequent to the receipt of the ballots by
6 the county clerk shall be mailed or otherwise transmitted as provided in subsection
7 (3) of this section to the voter within three (3) days of the receipt of the request.
- 8 (5) The county clerk shall cause ballots to be printed fifty (50) days prior to each
9 primary or regular election, and forty-five (45) days prior to a special election.
- 10 (6) The outer envelope shall bear the words "Absentee Ballot" and the address and
11 official title of the county clerk and shall provide space for the voter's signature,
12 voting address, precinct number, and signatures of two (2) witnesses if the voter
13 signs the form with the use of a mark instead of the voter's signature. A detachable
14 flap on the inner envelope shall provide space for the voter's signature, voting
15 address, precinct number, signatures of two (2) witnesses if the voter signs the form
16 with the use of a mark instead of the voter's signature and notice of penalty provided
17 in KRS 117.995(5). The county clerk shall type the voter's address and precinct
18 number in the upper left hand corner of the outer envelope and of the detachable
19 flap on the inner envelope immediately below the blank space for the voter's
20 signature. The inner envelope shall be blank. The county clerk shall retain the
21 application and the postal form required by subsection (3) of this section for twenty-
22 two (22) months after the election.
- 23 (7) Any person who has received an absentee ballot by mail but who knows at least
24 seven (7) days before the date of the election that he or she will be in the county on
25 election day and who has not voted pursuant to the provisions of KRS 117.086 shall
26 cancel his or her absentee ballot and vote in person. The voter shall return the
27 absentee ballot to the county clerk's office no later than seven (7) days prior to the

1 date of the election. Upon the return of the absentee ballot, the county clerk shall
2 mark on the outer envelope of the sealed ballot or the unmarked ballot the words
3 "Canceled because voter appeared to vote in person." Sealed envelopes so marked
4 shall not be opened. The county clerk shall remove the voter's name from the list of
5 persons who were sent absentee ballots, and the voter may vote in the precinct in
6 which he or she is properly registered.

7 (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested
8 mail-in ballot within a reasonable amount of time shall contact the county clerk,
9 who shall reissue a second ballot. The county clerk shall keep a record of the
10 absentee ballots issued and returned by mail, and the absentee voting that is
11 performed on the voting machine in the county clerk's office or other place
12 designated by the county board of elections and approved by the State Board of
13 Elections, to verify that only the first voted ballot to be returned by the voter is
14 counted. Upon the return of any ballot after the first ballot is returned, the county
15 clerk shall mark on the outer envelope of the sealed ballot the words "Canceled
16 because ballot reissued."

17 (9) Any covered voter as defined in KRS 117A.010 who has received an absentee
18 ballot but who knows that he or she will be in the county on election day and who
19 has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her
20 absentee ballot and vote in person. The voter shall return the absentee ballot to the
21 county clerk's office on or before election day. Upon the return of the absentee
22 ballot, the county clerk shall mark on the outer envelope of the sealed ballot or the
23 unmarked ballot the words "Canceled because voter appeared to vote in person."
24 Sealed envelopes so marked shall not be opened. If the covered voter is unable to
25 return the absentee ballot to the county clerk's office on or before election day, at
26 the time he or she votes in person, he or she shall sign a written oath as to his or her
27 qualifications on the form prescribed by the State Board of Elections pursuant to

1 KRS 117.245. The county clerk shall remove the voter's name from the list of
2 persons who were sent absentee ballots, provide the voter with written authorization
3 to vote at the precinct, and the voter may vote in the precinct in which he or she is
4 properly registered.

5 (10) Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to
6 61.884, the information contained in an application for an absentee ballot shall not
7 be made public until after the close of business hours on the election day for which
8 the application applies. This subsection shall not prohibit at any time the disclosure,
9 upon request, of the total number of applications for absentee ballots that have been
10 filed, or the disclosure to the Secretary of State or the State Board of Elections, if
11 requested or if otherwise required by law, of any information in an application for
12 an absentee ballot.

13 ➔Section 2. KRS 117.086 is amended to read as follows:

14 (1) The voter returning his or her absentee ballot by mail shall mark ~~the~~^{this} ballot,
15 seal it in the inner envelope and then in the outer envelope, and mail it to the county
16 clerk as ~~shall be~~ provided by this chapter. The voter shall sign the detachable flap
17 and the outer envelope in order to validate the ballot. A person having power of
18 attorney for the voter and who signs the detachable flap and outer envelope for the
19 voter shall complete the voter assistance form as required by KRS 117.255. The
20 signatures of two (2) witnesses are required if the voter signs the form with the use
21 of a mark instead of the voter's signature. A resident of Kentucky who is a covered
22 voter as defined in KRS 117A.010 who has received an absentee ballot transmitted
23 by facsimile machine or by means of the electronic transmission system established
24 under KRS 117A.030(4) shall transmit the voted ballot to the county clerk by mail
25 only, conforming with ballot security requirements that may be promulgated
26 through administrative regulation by the state board ~~by administrative~~
27 ~~regulation~~. In order to be counted, the ballots shall be received by the county clerk

1 by at least the time the polls close, which shall be after the last voter waiting in
2 line at 6 p.m., prevailing time, has voted as established in KRS 118.035(1)~~by the~~
3 ~~election laws generally for the closing of the polls, which time shall not include the~~
4 ~~extra hour during which those voters may vote who were waiting in line to vote at~~
5 ~~the scheduled poll closing time~~.

6 (2) Any voter who shall be absent from the county on election day, but who does not
7 qualify to receive an absentee ballot by mail under the provisions of KRS 117.085,
8 and all voters qualified to vote prior to the election under the provisions of KRS
9 117.085, shall vote at the main office of the county clerk or other place designated
10 by the county board of elections, and approved by the State Board of Elections,
11 prior to the day of election. The county clerk may provide~~for such voting by the~~
12 voting equipment in general use in the county~~either at the precinct~~, the
13 equipment~~as may be~~ used to tabulate absentee ballots, or any other voting
14 equipment approved by the State Board of Elections for use in Kentucky, except as
15 follows:

16 (a) Any voter qualifying to vote in the county clerk's office or other place
17 designated by the county board of elections, and approved by the State Board
18 of Elections, who receives assistance to vote shall complete the voter
19 assistance form required by KRS 117.255;and~~;~~

20 (b) Any voter qualifying to vote in the county clerk's office or other place
21 designated by the county board of elections, and approved by the State Board
22 of Elections, whose qualifications are challenged by any county clerk or
23 deputy shall complete an "Oath of Voter" affidavit.

24 (3) When the county clerk uses general voting equipment as provided~~for~~ in
25 subsection (2) of this section, each voter casting his or her vote at the county clerk's
26 office or other place designated by the county board of elections, and approved by
27 the State Board of Elections, shall sign an "Absentee Ballot Signature Roster."

- 1 (4) The county clerk shall designate a location within his or her office where the
2 ballots shall be cast secretly. The county clerk, with the approval of the State Board
3 of Elections, may establish locations other than his or her main office in which the
4 voters may execute their ballots. Public notice of the locations shall be given
5 pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county
6 chairs~~[chairmen]~~ of the two (2) political parties whose candidates polled the largest
7 number of votes in the county at the last regular~~[general]~~ election.
- 8 (5) The State Board of Elections shall promulgate administrative regulations to
9 implement~~[provide for casting ballots as provided in]~~ subsection (2) of this section.
- 10 (6) The county clerk shall deposit all of the absentee ballots returned by mail in a
11 locked ballot box immediately upon receipt without opening the outer envelope.
12 The ballot box shall be locked with three (3) locks. The keys to the box shall be
13 retained by the three (3) members of the central absentee ballot counting board, if
14 one is appointed, or by the members of the board of elections, and the box shall
15 remain locked until the ballots are counted. All voting equipment on which ballots
16 are cast as permitted in subsection (2) of this section shall also remain locked and
17 the keys shall be retained by the three (3) members of the central absentee ballot
18 counting board, if one is appointed, or by the members of the board of elections,
19 and the equipment shall remain locked until the ballots are counted.
- 20 (7) The county clerk shall keep a list for each election of all persons who return their
21 absentee ballots by mail or who cast their ballots in the ~~[clerk's]~~ office of the county
22 clerk or other place designated by the county board of elections and approved by the
23 State Board of Elections, and shall send a copy of each list to the state board after
24 the election day for which the list applies. Notwithstanding the provisions of the
25 Kentucky Open Records Act, KRS 61.870 to 61.884, each list of all persons who
26 return their absentee ballots by mail or cast their ballots in the county clerk's office
27 or other designated and approved place shall not be made public until after the close

1 of business hours on the election day for which the list applies. The county clerk
2 and the Secretary of State shall keep a record of the number of votes cast by
3 absentee ballots returned by mail and cast on the voting machine in the county
4 clerk's office or other place designated by the county board of elections and
5 approved by the State Board of Elections, which are cast in any election as a part of
6 the official returns of the election.

7 (8) The county board of elections shall report to the State Board of Elections within ten
8 (10) days after any primary or general election as to the number of rejected absentee
9 ballots and the reasons for rejected absentee ballots on a form prescribed by the
10 State Board of Elections in administrative regulations promulgated under KRS
11 Chapter 13A.